

October 25, 2010

**Regular Meeting of the Board of Trustees
Called to Order at 8PM**

PRESENT:

**TRUSTEE ECKLOND
TRUSTEE GORMAN
TRUSTEE QUIGLEY
TRUSTEE GIORDANO
MAYOR FITZPATRICK**

The meeting opened with the Pledge of Allegiance and Salute to the Flag.

PUBLIC HEARINGS

I. PUBLIC HEARING ON A PROPOSED LOCAL LAW AMENDING AND SUPPLEMENTING THE VILLAGE CODE OF THE VILLAGE OF TUCKAHOE CONCERNING LEAF BLOWER AND OTHER ENGINE-DRIVEN POWER EQUIPMENT REGULATIONS

At a regular meeting of the Village Board of the Village of Tuckahoe, New York (the "Village") held at Village Hall, 65 Main Street, Tuckahoe, New York on October 4, 2010.

WHEREAS, a resolution was duly adopted by the Village Board of Trustees of the Village of Tuckahoe, New York for a public hearing to held by the Village Board on the 25th day of October 2010, at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, to hear all interested parties concerning an amendment to the Village Code of the Village Tuckahoe concerning leaf blower and other engine-driven power equipment regulations; and

WHEREAS, notice of said public hearing was duly advertised in the Journal News, the official newspaper of said Village, on the 2nd day of October 2010; and

WHEREAS, said public hearing was duly held on the 25th day of October 2010, at 8:00 p.m. at Village Hall, 65 Main Street, Tuckahoe, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, pursuant to 6 NYCRR Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act (SEQRA) it has been determined by the Village Board of said Village that adoption of said proposed Local Law would not have a significant effect upon the environment; and

WHEREAS, the Village Board, after due deliberation, finds it in the best interest of said Village to adopt said Local Law.

Be it enacted by the Village Board of Trustees of the Village of Tuckahoe as follows:

Section 1.

The Village Code is hereby amended and supplemented to add an Article IV of Chapter 15, entitled "Leaf Blower And Other Engine-Driven Power Equipment Regulations" as follows:

Chapter 15

Article IV Leaf Blower And Other Engine-Driven Power Equipment Regulations

§ 15-50. Purpose.

The Village Board of Trustees finds that the reduction of noise, emissions of gases, the blowing of dust particles and other airborne pollutants into the air and onto other nearby properties from the use of leaf blowers and other engine-driven power equipment is a public concern that affects the public health, welfare and environment of the Village of Tuckahoe and its citizens.

§ 15-51. Definitions.

Leaf Blower - Leaf blowers are defined as portable, handheld or back pack style power equipment that is powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, moving, removing, dispersing, vacuuming or redistributing leaves, dust, dirt, grass clippings, cuttings, and trimmings from trees and shrubs or any other type of litter or debris.

§ 15-52. Limitations On Use.

- a) The use of gasoline-powered Leaf Blowers in the Village of Tuckahoe is prohibited from June 1st through and including September 30th of each year.
- b) Subject to subsection (a) of this Section, during the period of June 1st through and including September 30th of each year, the use of power lawn mowers, power hedge trimmers, electric leaf blowers and any other engine-driven power tool or motorized equipment may be used during the following hours:
 - (1) Monday through Friday – 8 AM through 6 PM
 - (2) Saturday – 9 AM through 5 PM
 - (3) Sunday and Holidays – Noon through 5 PM

- c) During the period of October 1st through and including May 31st of each year, the use of Leaf Blowers, power lawn mowers , power hedge trimmers, and any other engine-driven power tool or motorized equipment may be used during the following hours:
 - (1) Monday through Friday – 8 AM through 6 PM
 - (2) Saturday – 9 AM through 5 PM
 - (3) Sunday and Holidays – Noon through 5 PM

- d) The foregoing provisions of this section 15-52 (b) and (c), above, shall not apply to snow blowers, chain saws, and other tools and equipment that may be used to clear and plow walks, streets, sidewalks and/or driveways during and within forty-eight (48) hours of snow, rain, ice, or wind storms or other similar emergencies.

- e) Leaf Blower operations shall not cause leaves, dirt, debris, grass clippings, cuttings or trimmings from trees or shrubs or any other type of litter or debris to be blown on any adjacent parcel of land or lot other than the parcel, land or lot upon which the Leaf Blower is being operated. Leaves, dirt, debris, grass clippings, cuttings or trimmings that are blown onto a public right-of-way shall be promptly removed.

- f) All Leaf Blowers, power lawn mowers, power hedge trimmers, electric Leaf Blowers and any other engine-driven power tool or motorized equipment must comply with all local, county, state and Federal laws. The sound emanating from any Leaf Blower or any other engine-driven power tool or motorized equipment operating within the Village shall be no greater than 65 decibels as measured from a point nearest to the Leaf Blower or such other engine-driven power tool or motorized equipment during its operation.

§ 15-53. Enforcement.

- a) The Code Enforcement Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department shall have the authority to enforce the provisions of this article.

§ 15-54. Penalties For Offenses.

- a) Subject to the terms set forth in subsection (b) of this Section, a violation of the provisions of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$350 or imprisonment not exceeding 15 days, or both, which shall be enforceable by the Code Enforcement Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department. All persons shall be entitled to one warning before the Village proceeds with a prosecution of such person under this article.

- b) Where the operator of a Leaf Blower, power lawn mower, power hedge trimmer, electric Leaf Blower, or any other engine-driven power tool or motorized equipment (“Equipment”) is an employee of a business that owns the Equipment and the operator is operating the Equipment pursuant to his or her employment duties, the employer of the operator of the Equipment shall be deemed in violation of the provisions of this article and, upon conviction, punished by a fine not exceeding \$350.
- c) In addition to the penalties indicated in subsection (a) and (b) above, the Code Enforcement Officer, Building Inspector, the Superintendent of Public Works and any police officer in the Village Police Department shall have all other remedies and techniques for the enforcement granted by this article or any other law, statute or regulation, including, but not limited to, summary action, injunctive relief and civil actions for damages to the environment.

Section 2. Insofar as the provisions of this Local Law are inconsistent with the provisions of any other local law, the provisions of this Local Law shall be controlling.

Section 3. This Local Law shall take effect immediately.

Section 4. The Village Clerk be and she hereby is directed to enter this Local Law in the minutes of this meeting and give due notice of the adoption of said Local Law to the Secretary of the State of New York.

Trustee Gorman made a motion to open public hearing was seconded by Trustee Giordano and upon roll call was carried by a vote 5-0.

Trustee Gorman gave a brief overview of the proposed changes. She cited air pollution, noise, debris, eye injuries, ozone levels, air quality, and children’s asthma as some of the reasons for considering the seasonal ban.

Marcello Solano, a Yonkers landscaper, spoke in opposition saying the ban would become very costly for landscapers. Further, many of the homes do not have outside outlets to connect an electric blower. Mayor Fitzpatrick asked for proof showing that Tuckahoe residents are charged less than Scarsdale and Yonkers because they have the ban. Trustee Quigley questioned whether these provisions are different than those in other municipalities. Trustee Giordano asked what the incremental cost would actually be.

Lori Minarik who supports the ban felt that living in one of the wealthiest counties the air quality is very poor.

Jeff Zuckerman expressed support for the ban and added that he was originally against it; however, since the change is good for our kids and the environment, we should live with the ban.

Mayor Fitzpatrick questioned the amount of particulate matter kicked up from electric blowers compared to gas to which Trustee Gorman said it's the same.

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Mr. Taviolilla, a landscaper from Eastchester, opposes the ban and suggested a compromise. He said that residents of communities with a ban are charge more because more men are needed. Tuckahoe is less since they can use leaf blowers.

Trustee Gorman asked what is done with grass clippings to which Mr. Taviolilla responded that in Yonkers they need to take it away. Trustee Gorman said clippings should really be put on the lawn and used for nutrients.

Andrea Pollack, Eastchester resident favors the ban.

Vito Catania of Dante Avenue is not happy with the proposed ban and said the intentions of this law are good but it does not make any sense. He enjoys a clean property and hopes that more residents utilize gardeners to make the Village look nice.

Larry Wilson, Yonkers resident and representative from the NYS Turf and Landscape Association, opposes the ban. He said Larchmont allows one leaf blower in the summer months and it works out well. Today's equipment is cleaner and quieter and electric blowers need to run on generators which make a lot of noise and pollute. Nassau County has an educational program for landscapers. Members should be conscientious.

Trustee Ecklund asked if 4 stroke engines are used now. Mr. Wilson responded yes. Mayor Fitzpatrick said that Westchester County makes all landscapers throw out old leaf blowers and replace them with leaf blowers that meet the California regulation. Mr. Solano asked if the municipalities are included. Mayor Fitzpatrick said yes. Mr. Zuckerman asked if any municipality have a ban and did away with it; he knows that a diesel engine does not give off more emissions than a gas leaf blower. Mr. Catania said that Mr. Wilson makes good points. The Board should get more people to hire landscapers to clean up their properties. Trustee Quigley's neighbor is in favor of the ban but questions other restrictions to power motored machines. Mr. Wilson wants it put on the ballot.

Trustee Gorman made a motion to keep open public hearing was seconded by Trustee Ecklund and upon roll call was carried by a vote 5-0.

Vito Catania referred to Resolution #3 and said he was surprised that political advertising is allowed on the Big Belly which is Village Property. John Cavallaro said that political advertising is a form of freedom of free speech. Mr. Catania suggested the poster show that it is paid advertising. Mr. Cavallaro read from case law which states

that "A municipality may not require a permit for a campaign sign if other temporary signs do not require a permit."

Bob Fois, an Eastchester resident, does not like political advertising on the Big Belly. Jeff Zuckerman said he finds political advertising on Village property unsettling. John Cavallaro was asked about regulating what can be advertised on the Big Belly. What about obscene or in appropriate? Trustee Giordano wants regulations. Mr. Cavallaro says there is a distinction between commercial and political speech.

RESOLUTIONS -

1. Mayor Fitzpatrick offered the following resolution - "BE IT RESOLVED THAT, according to Section 15-104, Sub.3(a) of the New York State Election Law, there shall be nominated two nominees for the office of Trustee, said office to be held for a term of two years, beginning April 1, 2011 and one nominee for the office of Mayor, said office to be held for a term of two years beginning April 1, 2011. **BE IT FURTHER RESOLVED THAT** Elections for such office shall be held on the 15th of March 2011 in the seven election districts within the Village of Tuckahoe.

Trustee Gorman made a motion to adopt resolution #1; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

2. Mayor Fitzpatrick offered a resolution accepting the donation of approximately 35 ornamental grass plants from Alison & Wyatt Wachtel.

Trustee Gorman made a motion to adopt resolution #2; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

Trustee Gorman thanked them.

3. Mayor Fitzpatrick offered a resolution ratifying Board action approving and authorizing advertisement on the Big Belly units at a rate of \$125.00 per month per unit.

Trustee Ecklund made a motion to adopt resolution #3; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

Trustee Ecklund wants to know if an advertising agreement is signed. John Cavallaro said we can put one in place. Trustee Ecklund asked if Chamber members could get a discount. Mayor Fitzpatrick said no. Trustee Giordano wants distinction between municipality and private business owner. Trustee Giordano expressed his concerns of having the wrong material advertised on Big Belly. Mayor Fitzpatrick met with an artist that displayed his art illegally throughout the Village. He now is asking for permission to hang his art. Are we going to have a problem with that, too? Mr. Cavallaro will investigate this matter. Trustee Giordano wants to have THIS IS A PAID ADVERTISEMENT written on each advertisement.

4. Mayor Fitzpatrick offered the following resolution - Standard Work Day and Reporting -

BE IT RESOLVED, that the Board of Trustees hereby establishes the following as standard work days for elected and appointed officials and will report the

following days worked to the New York State and Local Employee's Retirement Systems based on the record of activities maintained and submitted by these officials to the Village Clerk:

<u>Title</u>	<u>Name</u>	<u>Standard Work</u>	<u>Term</u>	<u>Participation in</u>	<u>Days/Month</u>
		<u>Hrs/Day</u>	<u>Begin/Ends</u>	<u>Employer's</u>	<u>(based on</u>
				<u>Time Keeping</u>	<u>record of</u>
				<u>System</u>	<u>Activities)</u>
Trustees -Clare Gorman		7hrs.	4/09-4/11	Yes	11.14 days/month
-Steve Ecklund		7 hrs.	4/10-4/12	Yes	7.24 days/month
Justice Michael O'Toole		7 hrs.	4/10-4/11	Yes	1.67 days/month

Trustee Quigley made a motion to adopt resolution #4; motion was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

5. Mayor Fitzpatrick offered a resolution approving payment of vouchers in the amount of \$260,565.78 consisting of abstract #22 for \$16,181.19, abstract #23 for \$93,102.97, abstract #24 for \$4,659.54 and abstract #25 for \$146,622.08. The three largest invoices paid were: (1) \$79,633.99 for employee health insurance premiums for the month of November 2010, (2) \$15,543.20 for electricity charges for the month of September 2010 and (3) \$10,330.00 for New York State's share of fines and fees collected by the Village's Justice Court.

Trustee Ecklund made a motion to adopt resolution #5; motion was seconded by Trustee Quigley and upon roll call was carried by a vote 5-0.

Mayor Fitzpatrick had noted the health insurance premium had been reduced. Susan Ciamarra explained the Village will receive a credit quarterly from the medicare portion D which deals with prescriptions; the credit is based on number of prescriptions processed.

6. Mayor Fitzpatrick offered a resolution approving the Westchester Park area for a partial street closure for Warren Avenue (from Lincoln Avenue to 29 Warren Avenue) on Sunday, October 31st starting at 4:30pm to 6:30pm for a Halloween Parade followed by a small get together for the neighborhood children.

Trustee Quigley made a motion to adopt resolution #6; motion was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

7. Mayor Fitzpatrick offered a resolution adopting a schedule of rents for the rental of the Village of Tuckahoe Trolley

At a regular meeting of the Village Board of the Village of Tuckahoe, New York (the "Village") held at Village Hall, 65 Main Street, Tuckahoe, New York on October 25, 2010.

WHEREAS, the Village of Tuckahoe had donated to it a certain Trolley;
and

WHEREAS, the Village of Tuckahoe, after said donation, has become the owner of said Trolley; and

WHEREAS, the Village has received requests from third parties to rent the Trolley for certain short-term uses; and

WHEREAS, the Village is willing to rent the Trolley for said certain short-term uses; and

WHEREAS, Village Board seeks to establish a rent schedule for the rental of said Trolley for certain short-term uses.

NOW, THEREFORE, BE IT RESOLVED

Section 1. The Village Board hereby adopts the following Schedule of Rents for the rental of the Village of Tuckahoe Trolley for certain short-term uses:

- i. A payment of \$650.00, which shall include up to three (3) hours use of the Trolley; and
- ii. A payment of \$100.00 per hour for each hour thereafter.
- iii. The foregoing rates shall include an Operator for the Trolley provided by the Village.

Section 2. That this resolution shall take effect immediately.

Trustee Quigley made a motion to adopt resolution #7; motion was seconded by Trustee Gorman and upon roll call was carried by a vote 5-0.

Trustee Quigley motioned to approve the minutes of the regular meeting of October 4, 2010; motion was seconded by Trustee Giordano and upon roll call motion was carried by a vote of 5 – 0.

Library- Debbie Coppola is in favor of leaf blowing restrictions. She announced the Library-Lord & Taylor fundraiser. The Library has a teen advisory board want to raise money through a candy raffle and a book sale on Nov. 8. The Library Board came up with a new idea *Volunteer Your Talent*. If you are interested in volunteering, call the library. Three authors will be at the library Dec. 29, April 12, and May 18.

Mayor Fitzpatrick announced that Ms. Stephanie Rusnak donated a new spruce tree to replace the tree she had donated from her backyard last year and planted in the Circuit Avenue Park that did not survive the frigid winter. The replacement tree was purchased Musser Nursery, Indiana, Pennsylvania. The Village is in need of a tree for Depot Square for the holidays. Community Meeting -November 8th –7:00PM – Village Hall; Next Village Board Meeting – November 22.

TRUSTEE ECKLOND reported on the rate increase from United Water saying that an average bill of \$756. will go up to \$778.00 the first year, \$857.00 the second, \$933.00 the third, and \$1017.00 by the end of the 4th year. Hydrants will increase from \$543.00 to \$992 Ribbon cutting for the new DPW building is set for Friday November 26 at 11:00AM.

TRUSTEE GORMAN- reported on the ECAP Fashion Show Oct. 30 and announced upcoming Planning, Zoning, Environmental, Tree, Sign & Awning

meetings and the Westchester County Recycling Days scheduled for. Nov 5th and 6th at Playland. Flu Shot will be available at the Community Center on Nov. 9th from 9-2.

TRUSTEE QUIGLEY announced that on Oct. 18 the Tuckahoe High School site was registered in the National Registry of Historical Places.

TRUSTEE GIORDANO reported that early projections of the budget seem to be neutral. Reform is needed not at the county level but at the state level to have taxes lowered. Mayor Fitzpatrick feels that county should also be lowered.

MAYOR FITZPATRICK announced that the Halloween window painting contest is going on. The Main St. Tennis court is almost complete with lines remaining to be painted.

Susan Ciamarra reported that the 2011 resident parking permits are available. 2nd half property tax bills are ready to be mailed and Village Offices will be closed November 11th in observance of the Veterans Day holiday.

There being no further business, the Board unanimously voted to adjourn the meeting at 10:30 PM.

Susan Ciamarra, Village Clerk